

CRIMINALIZATION AT BORDERS:

introduction to some
cases and campaigns -
discussions

FREE PYLOS 9

FREE HOMAYOUN

THE EL HIBLU 3

#FREEPYLOS9

FREE
HOMAYOUN

THE EL HIBLU 3

open assembly against
Lesvos
border violence

Κατάληψη
στο πιρνεύο

This brochure is a compilation of texts from different campaigns in support to people on the move that has been criminalised. It is thought to be a support material for the event "Criminalisation at the borders" that will take place the 7th of June in Mpineio squat in Mytilini.

Free the Captains!

At this very moment, over 2700 people are detained in Greece as “smugglers” for exercising their freedom of movement or after being found guilty of “facilitating” it in others. Even more people are imprisoned in the rest of Europe. People on the move are often arrested and convicted of such “crimes” after entering Europe. They might have been driving boats or cars across a border but, equally likely, they might not. Some were arrested completely at random. Some were simply those sitting next to their dinghy’s steering gear. Others were the only ones in their boat with a bit of nautical knowledge. Some might have paid a bit less for their trip. Others might have received some money. In Greek law a person driving a boat is considered a “facilitator”, no matter if money is involved or not. Despite its harmless connotations, this word - "facilitator" - defines the lives of the people labelled by it.

We don’t believe in the justice system, but it is worth mentioning that Greece is enabled to send thousands to jail by applying the European Facilitators Package, the legislative framework for such crimes. Not only does this allow for huge sentences, leaving prisons full of people jailed for boat driving, at the same time it feeds the EU’s narrative of fighting against smuggling. On top of a base prison sentence, an additional 10 years in prison per person “facilitated” into Europe is often added, and in some cases an extra charge of causing a shipwreck. We should remember that the very people brought before the court are those that brought their boat to shore as safely as possible and saved many lives. Still, they end up dragged into farcical trials without proper legal representation and, more often than not, jailed for many years.

This process of criminalisation is systematic and results from racist laws and border practices. It affects the lives of criminalised people forever. These trials usually happen in the shadows. The state lawyers are assigned to their clients and get to know them, and the details of the

case, 15 minutes before the trial is scheduled. Trials often happen without appropriate translation. Verdicts are made after a process averaging 38 minutes, condemning people for an average of 44 years in prison. The lack of legal assistance, as well as the short procedures at a moment's notice, are some of the tools used in the system of imprisoning migrants. This has left a lot of people without any support, in prison for years, and with no legal possibility after their appeal.

The criminalisation of people on the move is too often invisible, and their voices are silenced through detention and imprisonment. This allows the authorities of the EU and its member States to further violate their rights and to exercise the worst violence on them, even after their release. They find their voice in the mainstream media, where they feed the common stereotypes portraying people on the move. They are depicted as poor victims, exploited and endangered by an evil smuggling mafia, as perpetrators themselves, or as tools sent to destroy our "superior" European culture.

To reinforce these ideas, media pundits deliberately mix up the terminology, using without legal grounds phrases like "human traffickers". This makes it seem like they have smuggled people against their will. The media and its audience does not seem to mind the contradiction in the idea that the smuggler and the invader are one and the same. With few exceptions, even for the Leftist media, a migrant's case has to break our hearts to make sympathetic headlines. They might write about the clear injustice of a father who had lost his child in a shipwreck and was accused of endangering his children's welfare. They might also write about the white activists arrested for "crimes of solidarity". Still, as long as they do not fit the profile of the vulnerable victim or the humanitarian hero, they will not mention the countless people on the move arrested for facilitation. The arrests have become a normality, and headlines about normality do not sell. It is the spectacle they want, nothing else.

Looking at the movement's response, even we tend to fall into the same trap. There have been some victories in the last few years, trials that were won after all, usually after huge campaigns and real legal support.

Still, most of the cases remain in the shadows. In order to gain wide appeal, the framework of our campaigns often fits within the logic of victimisation and innocence. Meanwhile, there are very few of us working on the subject and with limited capacities, initiatives such as the “Captain Support Network”, solidarity lawyers and individuals. They face a situation where it is difficult to find convicted people in the prison system, where it is difficult to raise attention, where it is difficult to find the money to support the campaigns and the legal efforts. We have to ask ourselves why.

Working on this topic is not only difficult; at some points it is contradictory. As we have already said, we don’t believe in the legal system, but in order to support people facing life sentences we have to use it. We form campaigns to find money to pay lawyers and court fees, and with this money we feed the same system that we criticise. If we don’t want to cause damage to the accused, we have to moderate our words in the media and say that the person is “innocent”. Under these circumstances, how can we create a different narrative, one that doesn’t victimise?

People who cross borders are people who resist fortress Europe. They are comrades in the fight against borders (regardless of their political ideas and background). If we did not focus on court and prison support, we would leave them behind.

This work might be full of political traps and contradictions. It might be emotionally challenging too, but when we consider the fact that people on the move are political prisoners of a system that scapegoats them, a system that bends its own laws to serve its own goals, we have to say that it is urgently and ideologically necessary.

On the one hand, these trials are part of the deterrence policies, alongside the pushbacks, the detention centres and the bureaucratic procedures that aim to scare people from entering Europe. On the other hand, they are an attempt to show right-wing voters that the government is doing something about migration, tackling the smugglers and preventing illegal entry to their country. They are nothing but a bad

theatre play, performed on the backs of people that have done nothing but fight for survival and seek a better life. This theatre does nothing to disrupt the smuggling networks, which are not destroyed by arresting those on the lowest level of the structure. Just as the so-called war on drugs is a war on users, the war against the smugglers is in fact a war on migrants.

Over time, the systemic criminalization of those who drive the boat has had a strong influence, not only on the lives of the thousands in jail, but also on those who decide to jump out of the boat for fear of ending up in jail, those who abandon the wheel when they see the Coast Guard or FRONTEX vessels, and those well-meaning still believe that it is illegal to assist people on the move in any way.

As long as there are no safe ways to migrate, there will be a demand for facilitation, and as long as there is a demand, there will be a market. The system that claims to dismantle this shadow market is the system that created it and keeps it profitable. In this market, the bosses are not affected by cases against boat drivers. Under this capitalist logic, the bosses will just replace them, and the money will keep reaching them, just like in every other business, legal or not. It is not our concern to discuss the moral aspects of the market. It is clearly as dirty as every other business. Instead we will focus on the people paying the price for this charade.

The deceitful claim that operations against the smuggling networks are motivated by concern for the lives of people on the move is pure hypocrisy. The same authorities arresting random people as smugglers are those conducting pushbacks. They commit countless crimes against people on the move every day at the European borders. The same politicians that go on and on, ranting endlessly about the evil of smugglers after yet another shipwreck, are those that push more money into the militarisation of borders, in turn forcing people to take more dangerous routes. They order their executive bodies to act with utmost brutality while locking people up in unlivable facilities where they are denied even the most basic needs. They create the reality where people on the move are perceived as a social threat and become the target of racist attacks all over Europe.

We should not leave the topic of migration in general, and criminalisation in particular, to the NGO industry. Nor should we treat it with the humanitarian approach. Instead we need to put it in a political, a revolutionary context! If we want to fight fortress Europe, we have to stand in solidarity with those imprisoned for actually resisting it, no matter their individual or collective reasons.

We need to recognise and expose the tactics of the State, which targets certain groups, defines them in order to separate them, and therefore to separate resistance. The workers' struggle, where migrant workers are often ignored, or in the worst case even treated as a threat for workers rights, is often successful and most dynamic when this division is rejected. We need to recognise that we have to fight together with people on the move and this obviously includes supporting them at the courts and in jail. We need to recognise that driving a boat can be as radical an act as tearing down the walls of a prison. Being here today and discussing this topic among political assemblies is the first step towards connecting, staying connected, and creating stronger networks is what we have to do to develop new tactics in the struggle against racism and capitalism.



**open assembly against /
Lesvos
border violence**

FREE #ELHIBLU3

On 28 March 2019, the Merchant Vessel ElHiblu1 arrived in Malta. In late March 2019, 108 people were rescued from a rubber boat in distress. The boat had departed Libyan shores trying to escape to Europe. Co-ordinated by an airplane of the EUNAVFOR Med operation, the people in distress were found and rescued by the merchant vessel ElHiblu1.

After the rescue operation, the captain of the ElHiblu1 reassured the rescued that they would be brought to a port of safety in Europe. Yet, following the order of European authorities, the crew tried to return them to the inhumane conditions in Libya from which they had just escaped.

When the rescued passengers realised they were being returned to Libya, they began to protest the attempted push-back. The ship re-directed its course and steered north towards Malta.

Upon arrival, three teenagers were arrested and accused of a multiplicity of crimes, including acts of terrorism. The three teenagers, who we collectively refer to as the ElHiblu3, were 15,16 and 19 years old when they reached the safe port in Malta and were immediately detained.

It took seven months to bail them out in November 2019. Since then, they remain on parole in Malta. They have to register every day at the police station and attend a monthly hearing during which the prosecution seeks to establish the potential charges to be brought forward. If foundguil by a jury in Malta, they could face a severe prison sentence.

Until recently, none of the people rescued by the tanker were heard by the court. Just now, one person was called-in to testify. While the police and the crew of the ship were heard promptly after the ship arrived, it remains intransparent why it took the prosecution two years to invite a rescued person that had escaped torture, rape and slavery in Libya to testify.

To us it is clear, that the Maltese state is trying to make an example of the three accused in order to deter others from similarly resisting push-backs to Libya.

On board the merchant vessel, the ElHiblu3 had acted as translators when the rescued started to collectively protest their push-back to Libya. Their imprisonment and prosecution constitutes a deep injustice. Instead of being prosecuted, the ElHiblu3 should be celebrated for their actions in preventing the return of 108 precarious lives to Libya. We cannot condemn Frontex for facilitating illegal push-backs and then blame the ones that stop them from happening.

In November 2023 the El Hiblu 3 pre-trial hearings have come to a close. The Attorney General issued a harsh and ill-thought Bill of Indictment against the three young men.

At this stage the Attorney can still drop the charges. We thus reiterate our demand that all charges be dropped and the trial be dismissed immediately – once and for all!

Instead of being prosecuted, the El Hiblu 3 should be celebrated for their actions in preventing the return of 108 people to Libya.

Resisting illegal push-backs to Libya is not a crime.

Free the ElHiblu 3 – dismiss the trial immediately!





On 25.08.2021, Homayoun Sabetara, a migrant fleeing Iran, was arrested by Greek authorities in Thessaloniki after having driven a vehicle near the Turkish-Greek border. Following an unfair trial in a language foreign to his own, on 26.09.2022, Mr. Sabetara was then sentenced to an 18-year prison sentence for alleged smuggling. Mr. Sabetara was reportedly coerced into piloting the vehicle from their departing point near the Turkish-Greek border, having to transport seven additional persons. Since his arrest in August 2021 he has been held in prison in Greece.

At the time of his escape from Iran, Homayoun Sabetara had no legal and safe passage available to travel to Germany, where his children currently reside. Homayoun's case is emblematic of a broader trend. For every boat or car that arrives, at least one person is arbitrarily arrested and systematically accused of smuggling. In

2022 1,374 migrants were arrested in Greece under similar charges. Trials last an average of 37 minutes and result in sentences of around 46 years in prison, as a study by Borderline Europe found. Instead of offering safe entry points, the EU criminalizes irregularized entry, leaving People on the Move with no choice but to take perilous journeys.

Homayoun's daughter, Mahtab Sabetara, initiated the #FreeHomayoun campaign to spotlight these harsh immigration policies by the EU. Through social media engagement, media outreach and advocacy, the campaign aims to raise awareness of the flaws and double standards in the current system. It calls for a fair treatment, upholding human rights, and providing safe pathways for all. The core demand of the campaign is the acquittal of Homayoun Sabetara, as well as all migrants who are criminalized for 'smuggling'.

After 576 days of waiting in prison for his appeal trial to start in Thessaloniki, Homayoun's trial was postponed once again to 24.09.2024. As in the first trial in September 2022, the sole prosecution witness was absent. This means, Homayoun's conviction was based primarily on the written testimony of a witness who never appeared in court.

During the hearing, one of Homayoun's lawyers, Harris Ladis, raised the argument that the Court failed to cross-examine this prosecution witness, in violation of article 6 of the ECtHR. On these grounds Homayoun's legal team petitioned the Court to not read the statement in question. However, the court decided to instead postpone the trial to September 2024, in order to have time to locate the witness.

The decision of the court is incomprehensible to everyone present. Mahtab Sabetara states: "My father's lawyers requested his release on terms due to his state of health. However, the court turned down the request within a few minutes." Homayoun's lawyer Dimitris Choulis also commented on the Court's decision: "The decision today is a message from the judicial system: if you fight back we will punish you. Although we are used to this mental torture from previous cases, it always surprises me when the judges are so harsh with vulnerable people."

Indeed, all across Greece, people have been convicted as alleged smugglers on questionable evidence, people whose right to a fair trial has been violated and keeps being violated. Nonetheless, confronting these violations often leads to prolonged postponements - as the case of Homayoun confirms. "Trapped between accepting unjust sentences or enduring prolonged incarceration, justice is not an option for these people", states Julia Winkler of borderline-europe.

Mahtab Sabetara, and her team of supporters will stay committed to drawing international attention to this injustice through the #FreeHomayoun campaign. Addressing supporters and the public after the appeal trial in April 2024, Mahtab Sabetara emphasizes:

We will continue to fight against the criminalisation of migration, and we will turn today's tears to strength and determination.



In the early morning hours of 14 June 2023, the overcrowded fishing boat “Adriana” sank in international waters around 50 miles from the port of Pylos, Greece. Hundreds of people drowned under the watch of the Hellenic Coast Guard (HCG). Nearly all of the 104 people who managed to survive were rescued by a luxury yacht after the fishing boat had sunk. The bodies of 82 people killed in the shipwreck were recovered; yet hundreds remain missing and are assumed to have gone down with the ship. Nine of the survivors have been arrested by Greek authorities and have been unfairly blamed as being responsible for the tragedy.

The Adriana left Tobruk, Libya on 7 June 2023, bound for Italy with over 750 passengers, mostly from Syria, Pakistan and Egypt. The fishing boat was massively overcrowded and in clear distress, with no appropriate navigation tools, no crew, nor safety equipment on board. After a week at sea, the boat’s engine had malfunctioned and supplies were running low. At least two people had already died of dehydration before the boat capsized. In response to these circumstances, people on board contacted Watch the Med Alarm Phone on 13 June 2023 and informed them that their boat was tilting dangerously and that they were in urgent need of assistance. Alarm Phone in turn informed the Hellenic Coast Guard, as the fishing boat was located within the Greek Search and Rescue (SAR) zone. Rescue never came.

In the weeks and months that followed this massacre of hundreds of people, evidence of the events that ultimately led to the Adriana’s capsizing continued to emerge, painting a clear picture of the role of the Hellenic Coast Guard. Not only did the HCG not attempt to rescue the clearly unseaworthy vessel, but it also obstructed potential rescue activities by other vessels for several hours. Many survivors also

describe how the HCG actively endangered the passengers' lives by attempting to tow the boat, which likely contributed to its sinking. It has also been reported that several other European authorities were informed of the Adriana's distress situation hours before the shipwreck, but did not intervene.

Despite the mounting evidence of Greece's responsibility, blame was immediately put on the victims themselves. The survivors were brought to Kalamata, Greece, where they were detained and isolated in a warehouse. There, the authorities subjected them to interrogation even before being able to access any independent legal or psycho-social support. Following these interrogations and based on the testimonies of a few survivors only, nine survivors were arrested and unjustly presented as those responsible for the massacre. They were charged with facilitating unauthorised entry ("smuggling"), membership in a criminal organisation, and causing the shipwreck that ultimately killed hundreds of people.

According to media reports, the accusations were based on testimonies indicating that they took on more responsibility for tasks on the vessel, for example distributing water or attempting to crowd control to stabilise the tilting boat. However, it appears that the accused men are themselves migrants who paid a significant amount of money to reach Europe, just like the other people on board. This is not the first time we have seen passengers being pressured into giving incriminating testimonies. Importantly, it seems that none of the nine men arrested were identified by other passengers as financial profiteers or even as part of a crew.

Currently, the accused are held in pre-trial detention at two different prisons in Greece: eight in Nafplio and one in Avlona. The investigation by the interrogator judge is still ongoing, and no date has yet been set for the trial. We do not expect it to take place sooner than spring 2024. The state appointed lawyers requested the release of the traumatised survivors from pre-trial detention, but this request was rejected. Defence of the accused men has now been taken on by a group of seven experienced criminal defence lawyers, including from the Human Rights Legal Project-Samos and the Legal Centre Lesvos.

On 13 September 2023, forty survivors of the deadly shipwreck in Pylos filed a criminal complaint against all responsible parties before the Naval Court of Piraeus.

Who is to be held responsible for the deaths of the Pylos shipwreck?

It is not the people looking for safety, forced to travel incredibly dangerous routes in overcrowded boats. Neither is it the smuggling networks that take advantage of this situation – they are a symptom, not the root of the problem. The real culprit is Fortress Europe. Desiring to control migration and close its borders, it strikes dirty deals with other oppressive governments.

The externalisation of the EU's borders beyond its territory, to other countries bordering the European Union, only leads to more violence. It doesn't stop migration, it only leads to more death along the way.

Over the last three years, the Hellenic Coast Guard has increased its practices of systematic pushbacks at sea, leading to more violence, deaths and disappearances. As a result, more people attempt to cross directly to Italy, which increases both the distance and the risk to life along these routes.⁴ The deadly practice of pushbacks, one of the most violent forms of preventing the crossing of national borders, became the norm in Europe and beyond. It should be recalled that already on 7 July 2022, Greece was condemned by the European Court of Human Rights for the HCG's illegal and life-threatening practices at sea (footnote f).⁵ Currently, at least 32 cases relating to 8 pushback operations were brought against Greece and are pending a decision before the same court.⁶ In this context, the tragedy of Pylos emerges as yet one more case of a long line of non-rescue and crimes at sea.

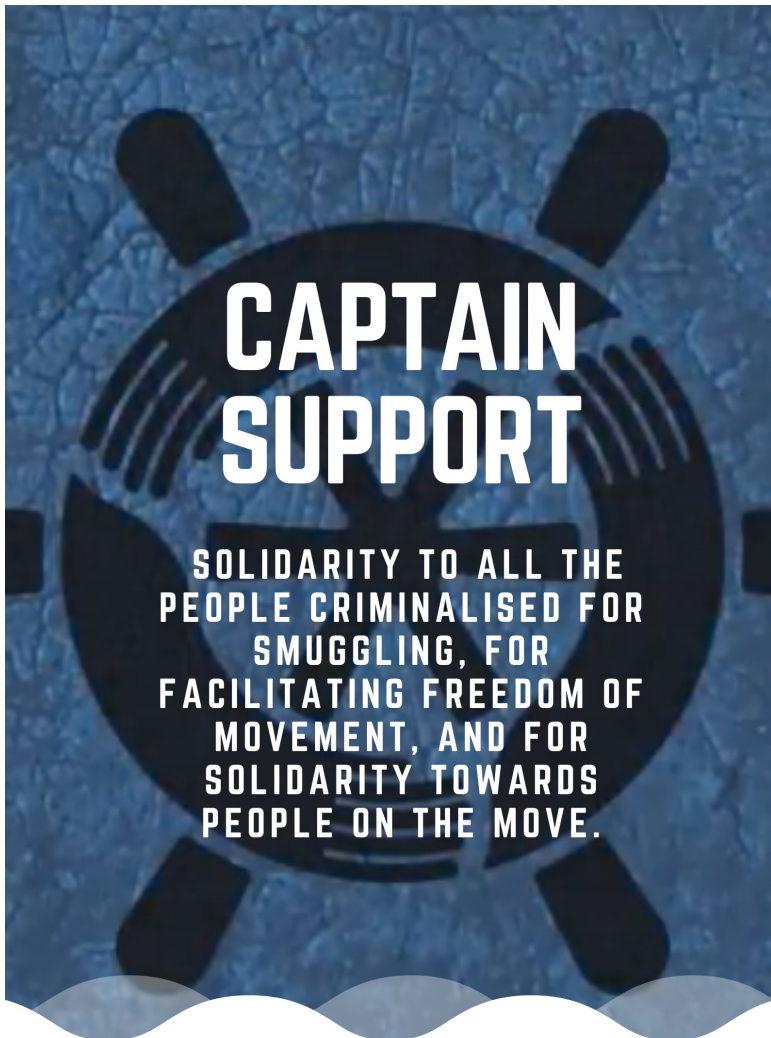
Whoever survives the journey and doesn't get pushed back is at risk of being arbitrarily arrested by the Coast Guard and randomly charged with facilitating unauthorised crossing of borders ("smuggling"). The criminalisation of people for crossing its borders in boats or cars is systematic in Greece.

According to a recent study by *borderline europe*, more than 2000 migrants are currently in Greek prisons, accused or convicted of "smuggling".⁷

In most cases, the arrests, pre-trial detention, and trial hearings of accused boat drivers are characterised by gross human rights violations and do not comply with the fair trial principles, including: arbitrary detention, violence and coercion, and little to no access to interpreters or legal aid. The Greek authorities applied the very same practices in the case of the Pylos shipwreck.

The criminalisation of people on the move is often invisible, and their voices are silenced by detention and long prison sentences. This allows the authorities of the EU states to further violate their rights. Facing extremely long prison sentences based on arbitrary arrests and trials, people on the move who are accused of facilitating illegal migration are a central target of the violence of the border regime.

As Captain Support Network, a group of activists mainly based in Europe, we stand in solidarity with everyone who is criminalised for so-called “smuggling”.



About the Trial and the Latest Developments

On Tuesday 21 May 2024, the Three Member Felony Court of Appeals of Kalamata examined the case against the 'Pylos 9'. After a short hearing, and in accordance with the prosecutor's proposal, the court found that the Greek State had no jurisdiction to prosecute the Pylos 9 for "participation in a criminal organisation" and "causing the shipwreck which resulted in people losing their lives", since the events that led to the Adriana shipwreck happened in international waters. The court also dropped the charges against them of "smuggling" and 'illegal entry in the national territory", after recognizing that neither the passengers of Adriana ever entered the Greek territory, nor had they ever the intention to do so.

This decision confirms what the defense team and solidarity movement denounced since the very start: not only are the 9 survivors innocent of the accusations they were facing, but their pre-trial detention was unjustified and contrary to international and national law.

Instead of receiving the support they needed following the tragic events of 14 June, the 9 survivors who had just watched more than 600 people drown, including members of their families and friends, were thrown into Greek prisons and the racist judicial system. The 9 survivors were finally vindicated thanks to the unlimited support and work of a tireless defense team and solidarity movement. This was despite the Greek Authorities and tabloids repeatedly trying to portray them as vicious smugglers in an attempt to conceal the authorities' responsibility.

Given the absence of any efficient investigation into the circumstances of the Pylos shipwreck, relevant evidence only came to light thanks to the work of a few independent Greek journalists, international media, and investigative collectives. These efforts were even more crucial given that the interrogator judge assigned to the case of the Pylos 9 repeatedly denied the defense team's request for a thorough examination of all the available and crucial evidence.

Despite the acquittal verdict of 21 May and contrary to the court's decision, the Pylos 9 – who sought asylum in Greece – remain until today behind bars because the Greek police vengefully ordered their administrative detention.

One of the 9 survivors, a 20 year old man whose application for asylum has already been rejected twice while he was detained, has been transferred to the notorious Pre-removal Centre of Petrou Ralli -near Athens- where he is detained and threatened with deportation to Egypt. The other 8, who are waiting for their asylum interviews, have been transferred to the police station of Nafplio, where they are currently detained until their transfer to a Pre-removal Centre, on the unjustified grounds that they may flee from the country.

The Pylos 9 are in urgent need for psychosocial support which they have been denied since the shipwreck they survived in June 2023. The arbitrary and punitive decision of the Greek police to maintain them in detention following their acquittal is unacceptable and a deliberate move to expose them to further inhumane and degrading treatment. From one prison to another prison, the 9 survivors have been confined within Greece's carceral system and their freedom violently attacked.

We demand their immediate release. Your mobilisation and your support to denounce this situation is also needed. We will continue to fight until the Pylos 9 are released and until the Hellenic Coast Guard and the Greek and European authorities are held accountable for their actions, which led to hundreds of people losing their lives. We will continue to fight to put an end to systematic border violence.

We demand:

- The immediate release of Pylos 9 and their proper treatment and support as survivors of the shipwreck
- A thorough and independent investigation into the real causes of the 'Pylos Shipwreck' and the actions of the Hellenic Coast Guard.
- An immediate end to the criminalisation of migration and the incarceration of people on the move.
- An immediate end to systematic deadly border violence.

Campaign #FreePylos9

For more information about the campaigns:

<https://www.freehomayoun.org/en>

<https://captainsupport.net/freepylos9/>

<https://elhiblu3.info/>

